

### **AMENDMENT TO THE CLAIMS**

This listing of claims will replace all prior versions, and listings, of claims in the application.

#### **Listing of Claims:**

1. (Currently Amended) A composition comprising:

a) from 0.001% to 10% of a zinc-containing layered material, wherein the zinc is incorporated in the layers of the zinc-containing layered material, and wherein the zinc-containing layered material is selected from a group consisting of basic zinc carbonate, zinc carbonate hydroxide, hydrozincite, zinc copper carbonate hydroxide, aurichalcite, copper zinc carbonate hydroxide, rosasite, phyllosilicate containing zinc ions, layered double hydroxide, hydroxy double salts and mixtures thereof~~containing an impurity~~;

b) from 10% to 50% of a surfactant including a surfactant with an anionic functional group;

c) from 0.01% to 5% of a pyrithione or a polyvalent metal salt of a pyrithione;

wherein the ~~basic zinc carbonate containing an impurity~~ zinc-containing layered material has a relative zinc lability of greater than at least 15%, and further wherein the ratio of surfactant to ~~basic zinc carbonate containing an impurity~~ the zinc-containing layered material is ~~greater than or equal to at least 2 to 1.~~

2. (Cancelled)

3. (Previously Presented) A composition according to claim 1 wherein the pyrithione or polyvalent metal salt of pyrithione is zinc pyrithione.

4. (Cancelled)

5. (Cancelled)

6. (Cancelled)

7. (Previously Presented) A composition according to claim 1 wherein the surfactant is selected from the group consisting of anionic, cationic, nonionic, amphoteric or zwitterionic.

8. (Original) A composition according to claim 7 wherein the surfactant is anionic.

9. (Currently Amended) A composition according to claim 1 wherein the pH is ~~greater than about~~ at least 6.5.

10. (Previously Presented) A composition according to claim 9 wherein the pH is from 6.8 to 9.5.

11. (Previously Presented) A composition according to claim 10 wherein the pH is from 6.8 to 8.5.

12. (Currently Amended) A composition according to claim 1 wherein the ~~basic zinc\_~~ containing layered material carbonate containing an impurity has a relative zinc lability of greater than about 20%.

13. (Currently Amended) A composition according to claim 1 wherein the ~~basic zinc\_~~ containing layered material carbonate containing an impurity has a relative zinc lability of greater than about 25%.

14. (Cancelled)

15. (Cancelled)

16. (Cancelled)

17. (Cancelled)

18. (Original)            A composition according to claim 1 wherein the composition further comprises a cationic deposition polymer.

19. (Original)            A composition according to claim 1 wherein the composition further comprises a conditioning agent.

20. (Original)            A composition according to claim 1 wherein the composition further comprises a suspending agent.

21. (Original)            A composition according to claim 20 wherein the suspending agent is selected from the group consisting of crystalline suspending agent, polymeric suspending agent or mixtures thereof.

22. (Original)            A composition according to claim 21 wherein the suspending agent is a crystalline suspending agent.

23. (Previously Presented)    A method of treating microbial infections comprising the use of the composition of claim 1 comprising the steps of: (a) wetting hair or skin with water; (b) applying an effective amount of the composition of claim 1 to the hair or skin; (c) rinsing the composition of claim 1 from the hair or skin using water; and (d) repeating steps a, b, and c as needed.

24. (Previously Presented) A method of treating fungal infections comprising the use of the composition of claim 1 comprising the steps of: (a) wetting hair or skin with water; (b) applying an effective amount of the composition of claim 1 to the hair or skin; (c) rinsing the composition of claim 1 from the hair or skin using water; and (d) repeating steps a, b, and c as needed.

25. (Previously Presented) A method of treating dandruff comprising the use of the composition of claim 1 comprising the steps of: (a) wetting hair or skin with water; (b) applying an effective amount of the composition of claim 1 to the hair or skin; (c) rinsing the composition of claim 1 from the hair or skin using water; and (d) repeating steps a, b, and c as needed.

26. (Cancelled)

27. (Currently Amended) A composition comprising:

a) from 0.1% to 5% of a zinc-containing layered material, wherein the zinc is incorporated in the layers of the zinc-containing layered material, and wherein the zinc-containing layered material is selected from a group consisting of basic zinc carbonate, zinc carbonate hydroxide, hydrozincite, zinc copper carbonate hydroxide, aurichalcite, copper zinc carbonate hydroxide, rosasite, phyllosilicate containing zinc ions, layered double hydroxide, hydroxy double salts and mixtures thereof containing an impurity;

b) from 10% to 50% of a surfactant including a surfactant with an anionic functional group;

c) from 0.1% to 2% of a pyrrithione or a polyvalent metal salt of a pyrrithione;

wherein the pyrrithione or polyvalent metal salt of pyrrithione is zinc pyrrithione<sub>2</sub>, wherein ~~the basic zinc carbonate containing an impurity~~ zinc-containing layered material has a relative zinc lability of greater than at least 15%, and ~~further wherein the ratio of surfactant to basic zinc-~~

Appl. No. 10/802,166  
Atty. Docket No. 9184M&  
Amdt. dated October 19, 2012  
Reply to Office Action of August 20, 2012  
Customer No. 27752

~~carbonate containing an impurity~~ the zinc-containing layered material is greater than or equal to at least 2 to 1.